

21 C.J.S. Courts § 328

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Courts

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X. Clerks of Courts

A. Nature of Office, Appointment, Qualification, and Tenure

§ 328. Term of office; vacancy

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

West's Key Number Digest, [Clerks of Courts](#)  7

The term of office of a clerk of court is ordinarily fixed by constitutional provision or by statute.

The term of office of a clerk of court is ordinarily fixed by constitutional provision or by statute.¹ A clerk's term may expire by death, resignation, or removal, as well as by the expiration of the statutory period for which he or she was elected.²

Vacancy.

In the absence of a constitutional provision on the subject, the legislature may prescribe the method of filling a vacancy in the office of court clerk,³ but where the constitution fixes the term of one elected to fill a vacancy, a statute purporting to vary such term is invalid.⁴ A rule requiring a special qualifying examination for applicants seeking appointment to office of court clerk upon the occurrence of a vacancy does not limit number of times that examination may be administered to one person.⁵

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Footnotes

1 Ala.—[Batson v. State](#), 206 Ala. 317, 89 So. 500 (1921).

Ind.—[Enmeier v. Blaize](#), 203 Ind. 475, 181 N.E. 1 (1932).

R.I.—[Gorham v. Robinson](#), 57 R.I. 1, 186 A. 832 (1936).

- 2 N.J.—[Board of Chosen Freeholders of Atlantic County v. Lee](#), 76 N.J.L. 327, 70 A. 925 (N.J. Sup. Ct. 1908), aff'd, [77 N.J.L. 799](#), 76 A. 1118 (N.J. Ct. Err. & App. 1909).
- 3 Tenn.—[In re Appointment of Clerk and Master for Sevier County](#), 670 S.W.2d 215 (Tenn. 1984).
- 4 S.C.—[Cannon v. Sligh](#), 170 S.C. 45, 169 S.E. 712 (1933).
- 5 S.C.—[Cannon v. Sligh](#), 170 S.C. 45, 169 S.E. 712 (1933).
- Ky.—[Franklin v. Lambert](#), 41 S.W.3d 852 (Ky. 2001).

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